

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Case No. 6:01-cr-60101-AA

Plaintiff

ORDER

v.

PATRICK CHAMPLIN TANSY,

Defendant.

AIKEN, Chief Judge:

On April 16, 2002, defendant pled guilty to a charge of feeling in possession of a firearm. Defendant failed to appear for his sentencing on July 23, 2002, and a warrant was issued for his arrest. Ultimately, defendant was extradited from Argentina in January of 2014, and on September 2, 2014, defendant was sentenced to a 37-month term of imprisonment. Defendant directly appealed his conviction and sentence to the Ninth Circuit, and his appeal remains pending.

Defendant also filed a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence. The government moves to dismiss defendant's § 2255 motion based on his waiver of his right to seek collateral relief and the pendency of his direct appeal.

The Ninth Circuit discourages the simultaneous consideration of a direct appeal and a § 2255 motion. See United States v. Pirro, 104 F.3d 297, 299 (9th Cir. 1997); Feldman v. Henman, 815 F.2d 1318, 1320 (9th Cir. 1987) ("A district court *should not* entertain a habeas corpus petition while there is an appeal pending in this court or in the Supreme Court."). The Ninth Circuit seeks to promote judicial economy by preventing litigants from "engaging the attention of two courts on the same case at the same time." Pirro, 104 F.3d at 299. I find no basis to deviate from Ninth Circuit direction in this case.

Accordingly, the government's Motion to Dismiss (doc. 58) is GRANTED and defendant's Motion Under 28 U.S.C. § 2255 (doc. 49) is DISMISSED without prejudice.

IT IS SO ORDERED.

Dated this 14 day of October, 2014.



Ann Aiken
United States District Judge